

## 46 Am. Jur. 2d Judges § 191

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### Judges

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### IX. Disqualification to Act in Particular Case

#### C. Remedies and Procedure

#### 4. Hearing, Determination, and Appeal

## § 191. Determination as to disqualification of judge where affidavit of prejudice conclusive

[Topic Summary](#) | [Correlation Table](#) | [References](#)

### West's Key Number Digest

West's Key Number Digest, [Judges](#)  51(1), 51(4)

### Forms

Forms relating to orders and judge disqualification or withdrawal, generally, see Am. Jur. Pleading and Practice Forms, Judges; Am. Jur. Pleading and Practice Forms, Criminal Procedure [\[Westlaw®\(r\) Search Query\]](#)

Where a judge is disqualified by the mere filing of an affidavit of prejudice,<sup>1</sup> or a timely motion to disqualify is made in proper form under a statute permitting a party to automatically disqualify a judge for prejudice based solely upon a sworn statement, the court is bound to accept the disqualification without further inquiry and without requiring proof of prejudice as a matter of fact and has no discretion to deny it.<sup>2</sup>

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### Footnotes

<sup>1</sup> § 184.

<sup>2</sup> Home Ins. Co. v. Superior Court, 34 Cal. 4th 1025, 22 Cal. Rptr. 3d 885, 103 P.3d 283 (2005); Elrod v. Stewart, 163 S.W.3d 587 (Mo. Ct. App. W.D. 2005).

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